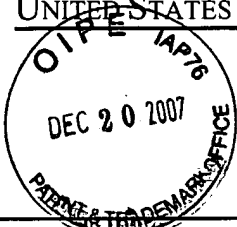




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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/735,699

12/16/2003

Curtis Hill

SBC.0002.US

3577

7590  
John P. Mulgrew  
11012 Langton Arms Ct.  
Oakton, VA 22124

12/14/2007

EXAMINER

TRAN, THUAN Q

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

12/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/735,699	Applicant(s) HILL, CURTIS	
	Examiner Thuan Tran	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-16-2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Status of Claims**

1. This action is in reply to the US application filed on 12-16-2003.
2. Claims 1-22 are currently pending and have been examined.

### **Information Disclosure Statement**

3. The Information Disclosure Statement filed on 12-16-2003 has been considered.  
An initialed copy of the Form 1449 is enclosed herewith.

### ***Specification***

4. The disclosure is objected to because of the following informalities:
  - Page 33 line 5 of the Specification states: "[INSERT AT&T EVENT TABLE]."Further the specification refers to the event table but the table is not available.  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. **Claims 1, 2, and 4-17** are rejected under 35 U.S.C. 102(b) as being anticipated by Willis et al., US 2001/0037277.

**Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

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**7. As per claims 1, 13, 14, and 17, Willis teaches:**

*(a) providing a database of stock event information for a plurality of stocks, said stock event information comprising: stock names (see at least paragraph 0035 item 302); stock share adjustment values (see at least paragraph 0046, 3.0 is the stock share adjustment value); stock price adjustment values (see at least paragraph 0046, 0.333 is the stock price adjustment value); resulting stock share multiplier values (see at least paragraph 0040, 2-to-1 is the stock price multiplier value); resulting stock price multiplier values (see at least paragraph 0043, 0.50 is the stock price multiplier value); and resulting stock names (see at least paragraph 0071);*

*(b) selecting a stock in the portfolio (see at least paragraph 0033);*

*(c) providing information about a first transaction of said stock, wherein said transactional information comprises: the quantity of shares of said stock associated with the first transaction (see at least paragraph 0074, the purchase of the security is the first transaction); when the first transaction occurred (see at least paragraph 0074, the purchase date); and how much the first transaction cost (see at least paragraph 0074 the purchase price and the quantity of stock purchased gives the total transaction cost);*

*(d) identifying whether said first transaction added or removed stock from the portfolio (see at least paragraph 0074, a purchase adds stock and a sale removes stock from the portfolio);*

*(e) identifying stock events related to the selected stock after said first transaction and affecting the number or types of stock in the portfolio, wherein the step of identifying related stock events comprises comparing said first transactional information to said*

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*database of stock event information (see at least paragraph 0074 and FIG 5A and 5B steps 510, 514, 518, 522, 526, 530, 534, 538, 542, and 546); and*

*(f) determining the quantity and type of shares in the portfolio after the occurrence of said stock event information (see at least paragraph 0074 and FIG 5A and 5B steps 512, 516, 520, 524, 528, 532, 536, 540, 544, 548).*

Note: Claim 17 also incorporates:

- *Searching the resulting stock names in the data base for the first stock name (see at least paragraph 0033);*
- *Identifying the first set of original stock names related to stock event information where the first stock name matches the resulting stock name (see at least paragraph 0033, the first stock name matches the resulting stock name when there has been no change in the stock name such as in the event of a stock split);*
- *Generating and displaying a report comprising the first set of identified stock names (see at least paragraph 126, a set of one stock names is displayed as shown on FIG. 13).*

**8. As per claim 2, Willis teaches:**

- *wherein the stock events identified affect the price or number of shares of said stock in said portfolio (see at least paragraph 0040).*

**9. As per claims 4, 15, and 16, Willis teaches:**

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*(g) selecting an accounting method for accounting for the addition or removal of stock from said portfolio (see at least paragraph 0126);*

*(h) automatically determining the cost basis of said stock after the occurrence of said stock event information (see at least paragraph 0087); and*

*(i) generating and displaying a report of cost basis (see at least paragraph 0126).*

**10. As per claim 5, Willis teaches:**

- *providing information about a second transaction of said stock, wherein said information about said second transaction comprises: the quantity of shares of said stock associated with the second transaction (see at least paragraph 0074, "various purchase periods," paragraph 0116, includes a second transaction);*
- *when the second transaction occurred (see at least paragraph 0117, when the basis for a particular share is calculated then the time that the transaction occurred is accounted for); and*
- *how much the second transaction cost (see at least paragraph 0074, the second purchase price for stocks during the "various purchase periods," paragraph 0116, and the total stock sold gives the total second transaction cost);*
- *identifying whether said second transaction added or removed stock from the portfolio (see at least paragraph 0074);*
- *identifying stock events related to the selected stock after said second transaction and affecting the number or types of stock in the portfolio, wherein the step of identifying related stock events comprises comparing said second*

*transactional information to said database of stock event information (see at least paragraph 0074 and FIG 5A and 5B steps 510, 514, 518, 522, 526, 530, 534, 538, 542, and 546; these steps also occur during the "various purchase periods," paragraph 0116); and*

- *determining the quantity and type of shares in the portfolio after the occurrence of said stock event information (see at least paragraph 0074 and FIG 5A and 5B steps 512, 516, 520, 524, 528, 532, 536, 540, 544, 548; these steps also occur during the "various purchase periods," paragraph 0116).*

**11. As per claim 6, Willis teaches:**

- *determining the quantity of shares of said stock in the portfolio after said second transaction (see at least FIG. 13, "The Investor currently owns YY shares of T Investment" is a determination of the quantity of shares of stock after "various purchase periods," paragraph 0116, which include a second transaction); and*

**12. As per claim 7, Willis teaches:**

- *wherein the step of identifying stock events after said first transaction results in more than one stock event being identified (see at least paragraph 0077).*

**13. As per claim 8, Willis teaches:**

- *wherein the step of determining the quantity and type of shares in the portfolio after the occurrence of said stock event information is performed for each stock*



*event for said stock after the first transaction (see at least paragraph 0077).*

**14. As per claim 9, Willis teaches:**

- *(g) providing information about a second transaction of said stock (see at least paragraph 0116, "various purchase periods" include a second transaction);*
- *(h) identifying stock events related to the selected stock after said second transaction (see at least paragraph 0077, the example in the reference also occurs after "various purchase periods," paragraph 0116);*
- *(i) selecting an accounting method used by the investor (see at least paragraph 0126);*
- *(j) automatically determining the cost basis of said stock after the occurrence of said second transaction using the selected accounting method (see at least paragraph 0087);*
- *(k) generating and displaying a report of cost basis (see at least paragraph 0126).*

**15. As per claim 10, Willis teaches:**

- *wherein said second transaction comprises a sale, donation, or other disposition of stock, and further comprising the step of determining gains or losses according to the selected accounting method (see at least paragraph 0074, calculation of the cost basis is determining gains or losses).*

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**16. As per claim 11, Willis teaches:**

- *wherein the step of generating and displaying a report of cost basis comprises: identifying stock purchases and sales (see at least paragraph 0036); identifying stock events (see at least paragraph 0035); and identifying new stocks resulting from stock events (see at least paragraph 0072).*

This information is used to produce the output screen described in paragraph 0126.

**17. As per claim 12, Willis teaches:**

- *wherein the step of providing information about when a first transaction occurred comprises an approximate date range (see at least FIG. 1, entering "UNKNOWN" into the "Acquired Date" field to use the average price for a month or a year is providing an approximate date range).*

***Claim Rejections - 35 USC § 103***

**18.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**19. Claims 3, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over**

**Willis et al., US 2001/0037277.**

**20. As per claim 3:**

Willis teaches wherein the stock events identified comprise stock splits, mergers, or spin-offs, see at least paragraph 0035. Willis does not specifically teach that the stock event can be a reverse stock split. However, the examiner takes **Official Notice** that reverse stock splits are old and well known in the field of finance. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend Willis to produce a method of automatically updating a stock certificate that takes into account reverse stock splits with motivation to more fully account for the different events that affect a stock.

**21. As per claim 18:**

Note: The examiner understands part (f) as performing a second search of the database for stock identified in the first search. Since the search for a stock name produces a list of both original and resulting stock names, see at least Willis paragraph 0033, the system "compiles any and all relative capital changes that would effect the basis of the investment", this is solely a repetitious step. The examiner understands part (g) as identifying which stock identified in the first search to have the same stock name before and after the stock event, as in the case of a stock split.

Willis teaches:

*(f) searching the resulting stock names in the database for stock names from the first set of identified stock names (see at least paragraph 0033, the results from the first*

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search is reentered into the search screen to perform this second search; the search can be performed on either original or resulting stock names);

*(g) identifying a second set of original stock names related to stock event information where at least one stock name from the first set of identified stock names matches the resulting stock name (see at least paragraph 0033, the first stock name matches the resulting stock name when there has been no change in the stock name such as in the event of a stock split);*

Willis does not specifically teach displaying the result of the first search along with the results of the second search. However, the Examiner takes **Official Notice** that it is old and well known in the art at the time of the invention to store search histories and results for display to the user at a later time. It would have been obvious to one of ordinary skill in the art at the time of the invention to extend Willis to produce a method of automatically updating a stock certificate where two search results are displayed at the same time with motivation to easily compare search results on a side-by-side display.

22. **Claims 19-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis et al., US 2001/0037277 in view of US Code Title 26 section 2032 (#1).

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Note: US Code 26 section 2032 was codified on June 30, 2003 as noted in US Code Title 26 Rule 2 (#2).

**23. As per claim 19:**

Willis teaches:

*(a) providing a database of stock event information for a plurality of stocks, said stock event information comprising: stock names (see at least paragraph 0035 item 302); stock share adjustment values (see at least paragraph 0046, 3.0 is the stock share adjustment value); stock price adjustment values (see at least paragraph 0046, 0.333 is the stock price adjustment value); resulting stock share multiplier values (see at least paragraph 0040, 2-to-1 is the stock price multiplier value); resulting stock price multiplier values (see at least paragraph 0043, 0.50 is the stock price multiplier value); and resulting stock names (see at least paragraph 0071);*

*(b) entering known information about a first stock in a decedent's portfolio (see at least paragraph 0033, this can be done for any person including for a deceased person);*

*(c) automatically identifying a first set of stock events related to the first stock that affected the number or types of stock in the decedent's portfolio before the decedent's death (see at least paragraph 0074 and FIG 5A and 5B steps 510, 514, 518, 522, 526, 530, 534, 538, 542, and 546);*

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*(d) automatically determining the quantity and type of shares in the portfolio after the occurrence of said first set of stock event information (see at least paragraph 0074 and GIG 5A and 5B steps 512, 516, 520, 524, 528, 532, 536, 540, 544, 548);*

*(e) determining the value of the portfolio as of the day of the decedent's death (see at least paragraph 0033, these calculations can be performed on the date of the person's death);*

*(f) automatically identifying a second set of stock events related to the first stock that affected the number or types of stock in the decedent's portfolio before an alternate date after the decedent's death (see at least paragraph 0074 and FIG 5A and 5B steps 510, 514, 518, 522, 526, 530, 534, 538, 542, and 546);*

*(g) determining the value of the portfolio as of the alternate date (see at least paragraph 0033, these calculations can be performed on an alternate date); and*

Willis does not specifically teach selecting a cost basis based on calculations performed on different days, one being the death date of the owner of the stock and an alternate date. However, US Code Title 26 Section 2032 teaches that a cost basis may be taken for a deceased person's stock either on the date of death or on an alternate date within 6 months of the decedent's death. It would have been obvious to one of ordinary skill in the art at the time of the invention to produce a method of automating estate valuation that selects the basis with the best tax results with motivation to reduce tax paid by the deceased's estate.

**24. As per claim 20:**

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Willis teaches claim 19 as described above. He does not specifically teach that the alternate date is approximately 6 months after the decedent's death. However, US Code Title 26 Section 2032 teaches that a cost basis may be taken for a deceased person's stock either on the date of death or on an alternate date within 6 months of the decedent's death. It would have been obvious to one of ordinary skill in the art at the time of the invention to produce a method of automating estate valuation that selects the basis with the best tax results with motivation to reduce tax paid by the deceased's estate.

**25. As per claim 21:**

Willis teaches claim 19 as described above. He does not specifically teach that the alternate date is in accordance with tax code. However, US Code Title 26 Section 2032 teaches that a cost basis may be taken for a deceased person's stock either on the date of death or on an alternate date within 6 months of the decedent's death. It would have been obvious to one of ordinary skill in the art at the time of the invention to produce a method of automating estate valuation that selects the basis with the best tax results with motivation to reduce tax paid by the deceased's estate.

**26. As per claim 22:**

Willis teaches claim 19 as described above. He does not specifically teach choosing the highest value between the two cost bases. However, the Examiner takes Official Notice that it is old and well known to choose a higher cost basis for a given

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investment to reduce the taxpayer's overall tax payment. It would have been obvious to one of ordinary skill in the art at the time of the invention to produce a method of automating estate valuation that selects the higher cost basis calculation option with motivation to reduce overall tax payments by a tax payer.

### ***Conclusion***

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- King et al., US Patent 5,704,045, teaches a system and method of risk transfer and risk diversification including means to assure with assurance of timely payment and segregation of the interests of capital.
- Fernholz, US Patent 5,819,238, teaches an apparatus and accompanying methods for automatically modifying a financial portfolio through dynamic re-weighting based on a non-constant function of current capitalization weights.
- Koehler, US Patent 6,064,983, teaches a system for performing tax computations.
- Haskins, US Patent 6,064,969, teaches flexible annuity settlement proposal generating system.
- Wallman, US Patent 6,161,098, teaches a method and apparatus for enabling small investors with a portfolio of securities to manage taxable events within the portfolio.



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- Sanders, US 2001/0042036, teaches a method and system for investing in customizable investment products.
- Brown et al., US 2002/0059127, teaches a method and apparatus for tax efficient investment management.
- Green, US 2003/0158798, teaches a rules-based accounting system for securities transactions.

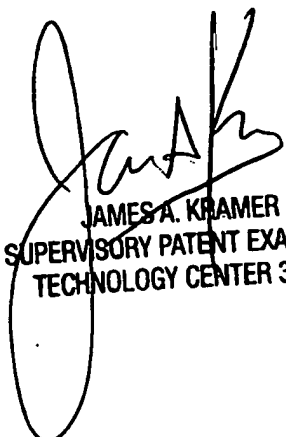
Art Unit: 3693

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan Tran whose telephone number is 571-270-1832. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thuan Tran  
Patent Examiner  
10-11-2007

  
JAMES A. KRAMER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

10.15.07

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(Use as many sheets as necessary)</i>	<b>Complete if Known</b>	
	Application Number	
	Filing Date	
	First Named Inventor	HILL, Curtis
	Art Unit	
	Examiner Name	
Sheet <u>1</u> of <u>1</u>	Attorney Docket Number	SBC.0002.US

U. S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
TTI ↓		US- 6,615,188			
		US- 6,556,992			
		US- 6,516,303			
		US- 6,513,019			
		US- 6,442,533			
		US- 6,161,098			
		US- 6,115,697			
		US- 5,819,238			
		US- 5,227,967			
		US-			
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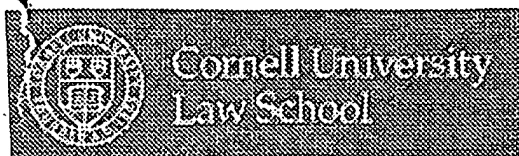
FOREIGN PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)			

Examiner Signature	/Thuan Tran/	Date Considered	10/02/2007
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.



(#1)

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## U.S. Code collection

TITLE 26 > Subtitle B > CHAPTER 11 > Subchapter A > PART III > § 2032

### § 2032. Alternate valuation

#### (a) General

The value of the gross

estate may be determined, if the executor so elects, by valuing all the property included in the gross estate as follows:

- (1) In the case of property distributed, sold, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date of distribution, sale, exchange, or other disposition.
- (2) In the case of property not distributed, sold, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date 6 months after the decedent's death.
- (3) Any interest or estate which is affected by mere lapse of time shall be included at its value as of the time of death (instead of the later date) with adjustment for any difference in its value as of the later date not due to mere lapse of time.

#### (b) Special rules

No deduction under this chapter of any item shall be allowed if allowance for such items is in effect given by the alternate valuation provided by this section. Wherever in any other subsection or section of this chapter reference is made to the value of property at the time of the decedent's death, such reference shall be deemed to refer to the value of such property used in determining the value of the gross estate. In case of an election made by the executor under this section, then—

- (1) for purposes of the charitable deduction under section 2055 or 2106 (a)(2), any bequest, legacy, devise, or transfer enumerated therein, and
- (2) for the purpose of the marital deduction under section 2056, any interest in property passing to the surviving spouse,

shall be valued as of the date of the decedent's death with adjustment for any difference in value (not due to mere lapse of time or the occurrence or nonoccurrence of a contingency) of the property as of the date 6 months after the decedent's death (substituting, in the case of property distributed by the executor or trustee, or sold, exchanged, or otherwise disposed of, during such 6-month period, the date thereof).

#### (c) Election must decrease gross estate and estate tax

No election may be made under this section with respect to an estate unless such election will decrease—

- (1) the value of the gross estate, and
- (2) the sum of the tax imposed by this chapter and the tax imposed by chapter 13 with respect to property includible in the decedent's gross estate (reduced by credits allowable against such taxes).

#### (d) Election

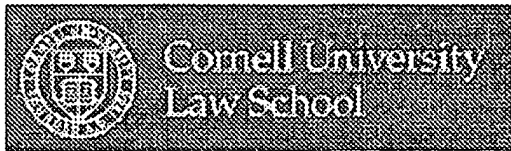
**(1) In general**

The election provided for in this section shall be made by the executor on the return of the tax imposed by this chapter. Such election, once made, shall be irrevocable.

**(2) Exception**

No election may be made under this section if such return is filed more than 1 year after the time prescribed by law (including extensions) for filing such return.

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### Rule 2. Effective Date

**(a) Adoption:** These Rules, except as otherwise

provided, will take effect on June 30, 2003. They govern all proceedings and cases commenced after they take effect, and also all further proceedings in cases then pending, except to the extent that in the opinion of the Court their application, in a particular case pending when the Rules take effect, would not be feasible or would work injustice, in which event the former procedure applies.

**(b) Amendments:** Amendments to these Rules shall state their effective date. Amendments shall likewise govern all proceedings both in cases pending on or commenced after their effective date, except to the extent otherwise provided, and subject to the further exception provided in paragraph (a) of this Rule.

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